

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

In re:)
TOP LINE GRANITE DESIGN INC.) Chapter 11
Debtor) Case No. 22-40216-CJP
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UNITED STATES TRUSTEE'S OBJECTION TO DEBTOR'S MOTION
FOR AUTHORITY TO PAY PREPETITION EMPLOYEE WAGES, AMOUNTS DUE TO
SUBCONTRACTORS, AND OTHER EMPLOYMENT RELATED OBLIGATIONS

Pursuant to 28 U.S.C. § 586, 11 U.S.C. §§ 307, and 507(a), William K. Harrington, the United States Trustee for Region I (“United States Trustee”) objects to Debtors’ Motion for Authority to Pay Prepetition Employee Wages, Amounts Due to Subcontractors, and Other Employment Related Obligations (the “Motion”) [Doc. # 35] as and states as follows:

1. Top Line Granite Design Inc. (the “Debtor”) filed, on March 25, 2022, a voluntary petition for relief pursuant to Chapter 11 of the Bankruptcy, as a small business Subchapter V debtor.
2. The United States Trustee appointed Steven Weiss as the Subchapter V trustee on March 28, 2022. [Dkt. # 9]
3. The Debtor filed the Motion on April 7, 2022. Through the Motion, the Debtor seeks authority to pay prepetition wages to certain employees of the Debtor (the “Employees”), as well as a 1099 subcontractor who serves as the Debtor’s sales manager and bookkeeper (the “Sales Manager”). (Motion at ¶ 8)
4. The Debtor also seeks authority to pay: (1) certain past employees (Motion at Exh. A); (2) various labor subcontractors (the “Subcontractors”) that are paid through US

Construction and Maintenance LLC, an affiliated entity (“US Construction”) (Motion at ¶ 8); and (3) monthly payments to a prior employee pursuant to a settlement agreement (the “Settlement Agreement”) (Motion at ¶ 14).

5. The Debtor’s owner, Edmilson Ramos (“Mr. Ramos”) is also “the majority member or general partner of US Construction and Maintenance LLC.” (Motion at p.3, n.2)

6. Although payment, at the onset of a chapter 11, of certain prepetition wages that enjoy priority under 11 U.S.C. § 507 would upset the Bankruptcy Code’s priority scheme, court’s will authorize such payment under the doctrine of necessity, where payment is necessary for a debtor to reach its goal of reorganization.

7. The United States Trustee objects to the payment of prepetition wages of Debtor’s past employees, because the Debtor has not established that payment of these wages is necessary for the Debtor’s reorganization.

8. The United States Trustee objects to the payment of prepetition wages of the Subcontractors. The Subcontractors’ relationship to the Debtor is not clearly articulated in the Motion, it appears that the Subcontractors are paid by US Construction and Management LLC (“US Construction”) in the normal course of business, and not by the Debtor. The Debtor does not list the individual Subcontractors as creditors on its Schedule F but does list US Construction. To the extent the Debtor seeks to pay US Construction as a critical vendor, the Debtor fails to establish that a vendor controlled by the Debtor’s owner would cease supplying laborers to the Debtor if the requested payment was not made.

9. The United States Trustee objects to the payment of amounts due under the Settlement Agreement. These payments are not entitled to priority, nor has the Debtor established that they should be made under the doctrine of necessity.

10. The Court should not authorize payment of prepetition wages, or other related payments, in contravention of the Bankruptcy Code, without a showing that these payments are necessary for the Debtor to reach its goal of reorganization.

WHEREFORE, the United States Trustee prays that this Court enter orders sustaining the United States Trustee objection, denying the Debtor's Motion, and granting such other relief as is right and just.

Respectfully submitted,

WILLIAM K. HARRINGTON
United States Trustee, Region I

By: /s/ Lisa D. Tingue
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April 22, 2022

CERTIFICATE OF SERVICE

I, Lisa D. Tingue, hereby certify that on April 22, 2022, I caused a copy of the foregoing document and attached statement to be served by email through the Court's ECF system to all entities that are registered users thereof in this case.

/s/ Lisa D. Tingue
Lisa D. Tingue